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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

VIRGINIA RY. & POWER CO. v. MEYER.

March 11, 1915.

[84 S. E. 742.]

1. Street Railroads (§ 93*)—Use of Streets.—Travelers on a street may cross in sight of a street car, and the operator is not warranted in assuming they will refrain from so doing.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 195-200; Dec. Dig. § 93.* 12 Va.-W. Va. Enc. Dig. 842; 14 Va.-W. Va. Enc. Dig. 967; 15 Va.-W. Va. Enc. Dig. 950.]

2. Trial (§ 243*)—Instructions—Conflict.—In an action for damages from a collision with a street car, plaintiff's instruction charged that the operator of the car had no right to assume that no person would attempt to cross in view of his car, and that the operator should use ordinary care to check his car's speed upon seeing a person about to cross in dangerous proximity. On behalf of defendant he jury was instructed that the operator of the car had the right to assume that all persons seeking to drive upon or across street car tracks would use reasonable prudence in doing so. Held, that there was no conflict between the two instructions.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 564, 565; Dec. Dig. § 243.* 7 Va.-W. Va. Enc. Dig. 729; 14 Va.-W. Va. Enc. Dig. 565; 15 Va.-W. Va. Enc. Dig. 518.]

3. Street Railroads (§ 118*)—Injuries to Travelers—Instructions—Last Clear Chance.—In an action for damages from a collision with a street car, an instruction that the operator of a car must use ordinary care to attempt to check its speed as soon as he sees, or ought to have seen, that a person is about to cross in dangerous proximity to the car, and that, if the jury believed that the motorman of the defendant company did not use ordinary care when he saw plaintiff, or ought, in the exercise of ordinary care, to have seen him about to cross the tracks in dangerous proximity to the car, and by such failure to use ordinary care plaintiff was injured, the jury should find for plaintiff, properly submits the doctrine of last clear chance.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 258-269; Dec. Dig. § 118.* 12 Va.-W. Va. Enc. Dig. 841; 14 Va.-W. Va. Enc. Dig. 966; 15 Va.-W. Va. Enc. Dig. 950.]

4. Trial (§ 228*)—Instructions.—In an action for damages for in-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

juries resulting from collision with a street car, an instruction that the motorman should use ordinary care to check the speed of his car as soon as he sees that a traveler is about to attempt to cross in dangerous proximity is correct without qualifying the expression ordinary care by the words "as an ordinarily prudent person acting prudently under the circumstances would have exercised," particularly as defendant requested instructions using the expression "ordinary care" without qualification.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 509-512, 526; Dec. Dig. § 228.* 12 Va.-W. Va. Enc. Dig. 841; 14 Va.-W. Va. Enc. Dig. 966; 15 Va.-W. Va. Enc. Dig. 950.]

5. Appeal and Error (§ 362*)—Assignments of Error—Sufficiency.—An assignment of error not made in the petition for the writ of error, and appearing for the first time in the reply brief, will not be considered.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1960, 1961, 3282-3284; Dec. Dig. § 362.* 1 Va.-W. Va. Enc. Dig. 503; 14 Va.-W. Va. Enc. Dig. 80; 15 Va.-W. Va. Enc. Dig. 59.]

Error to Hustings Court of Richmond.

Action by Samuel Meyer against the Virginia Railway & Power Company. There was a judgment for plaintiff, and defendant brings error. Affirmed.

H. W. Anderson, A. B. Guigon, and T. Justin Moore, all of Richmond, for plaintiff in error.

O'Flaherty, Fulton & Byrd, of Richmond, for defendant in error.

VIRGINIA RY. & POWER CO. v. MEYER.

March 11, 1915.

[84 S. E. 744.]

Damages (§ 132*)—Personal Injuries—Award.—Where a female motorist was injured in a collision with a street car, and her sufferings were serious and protracted, an award of \$2,500 damages cannot be held excessive.

[Ed. Note.—For other cases, see Damages, Cent. Dig. §§ 372-385, 396; Dec. Dig. § 132.* 4 Va.-W. Va. Enc. Dig. 206; 12 Va.-W. Va. Enc. Dig. 852; 14 Va.-W. Va. Enc. Dig. 304; 15 Va.-W. Va. Enc. Dig. 253.]

Error to Hustings Court of Richmond.

Action by Emma Meyer against the Virginia Railway & Power

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.